

DOWD, J.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

R.D. Marks Consulting, Inc., )  
                                 ) CASE NO. 5:08 CV 2962  
Plaintiff,                  )  
                                 )  
v.                            )        MEMORANDUM OPINION  
                                 ) (Resolving ECF 5)  
Astra Holdings, LP, et al., )  
                                 )  
Defendants.                 )  
                                 )

I. INTRODUCTION

This case for breach of contract was removed from the Summit County Court of Common Pleas on the basis of diversity jurisdiction. The Court referred this case to Magistrate Judge Pearson for general pre-trial supervision. ECF 4. Subsequently, defendants moved to dismiss for lack of personal jurisdiction, (ECF 5), which plaintiff opposed (ECF 6). Defendants replied (ECF 7) and plaintiff filed a sur-reply (ECF 10).

Magistrate Judge Pearson issued a Report and Recommendation (Report) regarding defendants' motion to dismiss, recommending that defendants' motion be denied. *See* ECF 17. Defendants objected to the Report's findings that: 1) plaintiff's breach of contract claim "arises from" defendants' contacts in Ohio; and 2) defendants purposefully availed themselves of the privilege of doing business in Ohio. Defendants also objected to the Report's reliance on defendants' contacts with Ohio to support its finding that defendants "transacted business" in Ohio and "purposefully availed" themselves of the privileges of doing business in Ohio. *See* ECF 20. Plaintiff filed a response to defendants' objections. ECF 22.

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## II. COURT'S REVIEW OF DEFENDANTS' OBJECTIONS

Rule 72(b)(3) of the Federal Rules of Civil Procedure provides that the Court must make a *de novo* review of any part of the Report that has been properly objected to. The Court conducted a *de novo* review of record regarding the motion to dismiss, and found the issue of personal jurisdiction to be a close call in this case. However, after concluding its *de novo* review, the Court adopts Magistrate Judge Pearson's Report and Recommendation.

## III. CONCLUSION

For the reasons discussed herein, the Court adopts the Report and Recommendation and defendants' motion to dismiss for lack of personal jurisdiction is DENIED.

IT IS SO ORDERED.

May 14, 2009  
Date

s/ David D. Dowd, Jr.  
David D. Dowd, Jr.  
U.S. District Judge